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**Friday, March 5, 2021**

**VIA USPS and ONLINE SUBMISSION**

Andrew Wheeler, Administrator  
Environmental Protection Agency  
1200 Pennsylvania Ave. NW  
Washington, DC 20460

John Blevins, Administrator, Region 4  
Atlanta Federal Center  
61 Forsyth St. SW  
Atlanta, GA 30303-3104  
Phone: 404-562-9900

**Re: Freedom of Information Act Request**

Dear FOIA Officer:

Pursuant to the Freedom of Information Act (FOIA) and on behalf of my client, Advance Etowah, a nonprofit, I request that you provide me with the documents described below in the possession, custody, and control of the Office of the Environmental Protection Agency. Further, I request that these documents be provided pursuant to a fee waiver. In support thereof, I state as follows:

**BACKGROUND**

**1. Advance Etowah**

Advance Etowah is a nonprofit organization dedicated to the advancement, beautification, and growth of Etowah County, Alabama. Specifically, it is focused on the coordination of county, city and township partnerships to grow a better Etowah County for all of its citizens. This corporation is organized exclusively for charitable, educational, benevolent, eleemosynary civic and cultural purposes, within the meaning of Section 501(c)(3) of the Internal Revenue Code (or corresponding section of any future Federal tax code), and for nonprofit purposes, within the meaning of Ala. Code 1975, 10-3A-1 et seq.

## **2. Etowah County, Alabama**

Etowah County, Alabama is the smallest county in the state of Alabama, but one of the most densely populated. It is located in the northeastern portion of the state. The county is home to many beautiful, protected nature trails and parks; the Coosa River courses through it, revitalizing the county and its residents. The County Seat and largest city therein is Gadsden. Smaller, surrounding cities and/or towns include Rainbow City, Attalla, Southside, Glencoe, and Hokes Bluff.

## **3. Pilgrim's Pride Animal Rendering Plant**

In the last three (3) to six (6) months, it has come to our attention that the Gadsden Airport Authority, City of Gadsden and other local government entities have solicited themselves and/or had solicited from them by Pilgrim's Pride a portion of property described as 3900 Steele Station Road, Gadsden, AL, upon which Pilgrim's Pride intends to place an animal rendering facility. This property does not belong to Pilgrim's Pride. It belongs to the aforementioned local government entities. Pilgrim's Pride has applied for certain environmental permits regarding the subject property.<sup>1</sup>

Further, on information and belief, Pilgrim's Pride has been the subject of multiple environmental violations, including violations of the Federal Clean Air Act, it is concerning to the citizens of Etowah County and the applicant herein on their behalf that a company like Pilgrim's Pride may be building a facility which will be detrimental to the health and safety of persons living, working, and visiting Etowah County, Alabama. For these reasons, Advance Etowah seeks any information regarding applications, approvals, surveys, and the like which have been applied for with the EPA or requested from the EPA relating to or describing these projects and their impact on the environment and environmental wellbeing of the county and its residents.<sup>2</sup>

## **OTHER DEFINITIONS AND INSTRUCTIONS**

Some terms used in this letter are defined in text above and below. In addition, the following definitions apply:

"Rendering plant" shall refer to the animal rendering facility proposed by Pilgrim's Pride at the subject location or any location in Etowah County, Alabama.

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<sup>1</sup> In addition to the relevant facts and concerns iterated herein, Advance Etowah is concerned with the ramifications associated with the proposed location of this plant on or near the Gadsden Airport. Although this agency is primarily concerned with the environmental wellbeing as a whole, to the extent that this Agency has any interest in environmental issues specific to airports and the like, this is an additional fact and concern the applicant would like to have considered.

<sup>2</sup> Please note that requests have also been sent to the Alabama Department of Environmental Management. These requests have been largely ignored.

The word “communication” shall refer to any disclosure, transfer, or exchange of information, statements, thoughts, or opinions, however made, including but not limited to, emails, voicemails, faxes, memos, inquiries, reports, and notes as well as any document reflecting or recording any of the foregoing.

The word “document” is defined for purposes of this letter as any and all records to which FOIA relates, including any electronically transmitted or stored documents. For responsive records, please search for records regardless of the format, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical materials. This request includes, without limitation, all correspondence, letters, emails, texts, memos, calendar entries, facsimiles, telephone messages, voicemail messages, audio or video recordings, transcripts, notes, minutes, telephone conversations, or discussions.

Singular words apply both to the singular and the plural; in the inverse, plural words apply to both the singular and the plural.

Any reference to an agency, entity, committee, group or person is defined to include any official, staff member, employee, agent, attorney, staff or staff member, or other representative of any of the foregoing without additional or specific reference thereto.

If any document is withheld in whole or part, please identify all such documents with specificity and provide all information required under 15 C.F.R. Sect. 4.4 and 43 C.F.R. Sect. 2.24. In the event that any of the requested documents cannot be disclosed in their entirety, we request that you release any material that can be reasonably segregated pursuant to 5 U.S.C. Sect. 552(b). Should any documents or portions of documents be withheld, we further request that you state with specificity the description of the document to be withheld and the factual and legal grounds for withholding said documents or portions thereof in an index as required by Vaughn v. Rosen, 484 F.2d 820 (D.C. Cir. 1973). Should any document include both disclosable and non-disclosable material that cannot be reasonably segregated, we request you describe what portion of the information in a document is non-disclosable and how that information is dispersed through the document. Mead Data Cent., Inc. v. U.S. Dept. of Air Force, 566 F.2d 424 (D.C. Cir. 1977). Even a single document is potentially beneficial for contributing to the public’s understanding. Eudey v. C.I.A., 478 F.Supp. 1175 (D.C. Dist. 1979).

Please respond to this request in writing within 2 twenty (20) working days as is required under 5 U.S.C. Sect. 552(a)(6)(A)(i). If all the requested documents are not available within that period, we request that you provide us with all requested documents or portions thereof which are available in that time frame. If all relevant records are not produced within that period of time, we are entitled to a waiver of fees for searching and duplicating records under 5 U.S.C. Sect. 552(a)(4)(A)(vii)(I), whether or not a waiver has been granted on other grounds.

Unless otherwise indicated, each request herein encompasses the time frame from March 2020 until the date of this Agency's response.

### **DOCUMENTS REQUESTED**

Please produce all internal and external communications related to or between the EPA and Pilgrim's Pride, the City of Gadsden, the Gadsden Water Works and Sewer Board, the Gadsden-Etowah Industrial Development Authority or the Gadsden Airport Authority. Also include all documents related to Pilgrim's Pride or JBS Inc. locating an animal rendering facility in Gadsden, Alabama or Etowah County, Alabama.

### **EXPEDITED PROCESSING REQUEST**

Advance Etowah seeks expedited processing of this request pursuant to 43 C.F.R. Sect. 2.20(c). Expedited processing is appropriate here because there is a "compelling need" for the disclosure of the requested information as "there is an urgency to inform the public about an actual or alleged Federal Government activity" and "the request is made by a person primarily engaged in disseminating information." 43 C.F.R. Sect. 2.20(a)(2) and U.S.C. Sect. 552(A)(6)(E)(v)(II).

In this case, Advance Etowah is a nonprofit organization engaged directly and indirectly in the provision of information to the public, the citizens of Etowah County and surrounding areas, regarding the advancement and interests of the county and its peoples. Advance Etowah regularly engages in livestreams on social media wherein its members provide the public with updates about the activities of local and federal government agencies and how the decisions of such groups will and may affect the peoples' interests. Advance Etowah has published reports regarding this information and regularly provides updates to the public. In particular, Advance Etowah has been a key player in ensuring that information regarding the proposed rendering plant is provided to the interested public, particularly given the underhanded, sneaky, and secretive way in which this matter has been handled by governing and representing officials.

Further, there is an urgency to inform the public about the records sought, because (1) this request concerns a "matter of current exigency to the American public"; (2) "the consequences of delaying a response would compromise a significantly recognized interest"; and (3) this request concerns "federal governmental activity." Al-Fayed v. C.I.A., 254 F.3d 300, 310 (D.C. Cir. 2001).

As it relates to the above described urgency: (1) This request concerns a matter of current exigency to the American public, particularly the citizens of Etowah County, Alabama. If this

rendering facility comes into fruition and is erected in its currently proposed position, it's removal is nigh impossible and certainly impractical. The informed decision to place the plant here should be made with all available information. (2) The consequences of delaying would compromise significant, recognized interests, including the ability of the citizens of Etowah County to live in a safe, clean environment, rather than plagued by pollution in violation of protecting governmental regulations.<sup>3</sup> (3) The information involved does involve federal governmental activity as it requests information, decisions, and records made, maintained, and kept by a federal governmental agency. Bloomberg, L.P. v. United States Food & Drug Admin., 500 F.Supp. 2d 371 (S.D.N.Y. 2007).

### **FEE WAIVER REQUEST**

On behalf of Advance Etowah, I request a waiver of search and copy fees related to this request. Such a waiver is required when disclosing information is in the public interest because it is likely to contribute significantly to the public understanding of governmental operations or activities, and not primarily in the commercial interests of the requester.

First, Advance Etowah has no commercial interest in the requested information. Advance Etowah is a nonprofit organization concerned solely with the interests and progress of Etowah County, Alabama.

Second, the information requested is likely to contribute to the public understanding of governmental activities under C.F.R. Sect. 2.48(a). The records requested concern the operations and activities of the federal governmental agency directly concerned with and over the granting of certain permits which deal with the health and safety of those who may be affected by plant activity like the plant/facility activity at issue here. Pilgrim's Pride has numerous EPA violations on its already spotted record. The people have a right to be concerned about the granting of another allowance/allotment and how these concerns may be resolved and/or reconciled.

Advance Etowah intends to disseminate the information requested to the public directly through the mediums already in place and operational. These mediums include social media, video broadcasts, audio broadcasts, signage, fliers, and the like. Advance Etowah has the capability to disseminate this information efficiently, quickly, and to the wondering public without incurring significant costs or placing barriers to the receipt of such information.

In addition, please note that this information is likely to result in a significant contribution to the public's understanding of the issues. If the EPA has done significant research into the environmental impact this plant may have in, on, and around Etowah County, Alabama,

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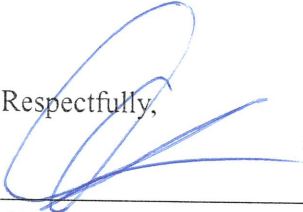
<sup>3</sup> Note also there is a concern regarding the health and safety of the airspace in and around the proposed plant location which would be on or near a public airport and potentially bring birds to the area, posing a unique hazard to those involved in aviation.

it will either ease the burden of concern on persons who live and work in the area, or it will heighten the burden of concern on those persons. Either way, the people have an interest in and a right to this information and how it will impact their health and wellbeing. This information is particularly important and concerning now, at a time when the people have the ability to reject the rendering plant and its coming to this geographic area before its construction is begun.

Clearly, the disclosure of information requested is likely to contribute to the public understanding of the operations and activities of the federal government and is not intended to further any commercial interests. Accordingly, waiver of fees is warranted under Sect.s 2.45 and 2.18 of the applicable Rules.

If you have any questions regarding this matter, request, or information/descriptions herein, please call me at 256-547-7200 or email me at [christie@kkslawgroup.com](mailto:christie@kkslawgroup.com). I am more than happy to assist you in any way which will advance or expedite the production of the documents requested herein. Thank you for your time.

Respectfully,



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Christie D. Knowles,  
Attorney at Law

#### CERTIFICATION

I, Dave Chadwick, am a member of Advance Etowah. I submit this certification in support of the request for expedited treatment and waiver of fees submitted by and through our counsel. I hereby certify that the information set out herein is true and correct to the best of my knowledge.

Dave Chadwick